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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of Section 309(j) ) PP Docket No. 93-253  
of the communications Act )  
Competitive Bidding )

REPLY TO COMMENTS ON PETITION FOR RECONSIDERATION AND  
CLARIFICATION  
OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION  
DISCUSSION

The National Telephone Cooperative Association ("NTCA") and others requested reconsideration of the Second Report and Order, in the above proceeding, FCC 94-61, released April 20, 1994 ("Order"). In its petition NTCA asked the Commission to clarify some parts and reconsider its definition of "rural telephone company" in the Second Report and Order.<sup>1</sup>

That definition in the generic rules proposed that a rural telephone company be defined as an independently owned and operated local exchange carrier with 50,000 access lines or fewer, and serving communities with 10,000 or fewer inhabitants."<sup>2</sup> NTCA urged the Commission to modify its

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<sup>1</sup> On June 29, 1994, comments in support of NTCA's petition were filed by the United States Telephone Association and Tri-County Telephone Company, Inc. BET Holdings, Inc. commented that the Commission should retain its definition of "rural telephone company."

<sup>2</sup> Order, Appendix, 47 C.F.R. § 1.2110(b)(3).

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definition to ensure that LECs would qualify if they served communities of 10,000 or had no more than 50,000 access lines. Additionally it supported a definition that defines a "rural telephone company as one with annual revenues of less than \$100,000 million or which serves no more than 100,000 access lines.

Subsequent to the filing of petitions for reconsideration by NTCA and others, the Commission announced service specific rules for competitive bidding for broadband PCS.<sup>3</sup> The announced rules provide that a "rural telephone company" is one which together with affiliates has no more than 100,000 access lines. The June 29 decision also provides for bidding on "entrepreneurs'" blocks by entities with \$125,000 million or less in annual gross revenues for the two prior calendar years and allows for the formation of consortia that include "rural telephone companies". The Commission has also adopted service specific rules for narrowband personal communications services (PCS) and interactive video and data service (IVDS) in the Third Report and Order and Fourth Report and Order in this docket.<sup>4</sup> Neither of these decisions provide specific preferences for rural telephone companies.

In view of the Commission's June 29 decision on competitive bidding rules for broadband PCS and its two other service

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<sup>3</sup> See, June 29, 1994 Action in this docket. FCC News release following Open Meeting of same date.

<sup>4</sup> See, respectively, Third Report and Order and Fourth Report and Order, both released in this docket on May 10, 1994.

specific competitive bidding rules, NTCA recommends that the Commission abandon the generic rule provisions that relate to the definition of "rural telephone companies" and that restrict the formation of consortia of "rural telephone companies." The Commission's decisions and experience in attempting to fashion rules that fit the characteristics of a particular service illustrates that the generic rules defining a "rural telephone company" generically and limiting or forbidding the formation of consortia serve no purpose. Properly so, the service that involves the most interest on the part of the public, broadband PCS, required the Commission to adopt a definition reflecting the capital intensive nature of that service. In fashioning auction rules for narrowband PCS and IVDS, the Commission did not rely on the generic rules. It merely refused to consider preferences for the class of companies its generic rules define as "rural telephone companies."

The different characteristics of the services for which competitive bidding rules have already been designed and the likely differences of potential new services warrants abandonment of a definition for which there is no rational basis to begin with. As NTCA stated in its petition, preventing the formation of consortia and limiting "rural telephone companies" in the manner proposed in the generic rules ignores the rurality factor implicit in the Congressional mandate directing the Commission to fashion rules that ensure the rapid deployment of spectrum-based services to rural areas as well as the dissemination of licenses

to a wide variety of applicants. Pursuant to new Section 309(j) of the Communications Act, the Commission must consider promoting economic opportunity for rural companies and other designated entities,<sup>5</sup> and "foster[ing] the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas . . . ."<sup>6</sup>

#### CONCLUSION

For the above stated reasons, NTCA urges the Commission to abandon those portions of its generic rules which define "rural telephone company. In the alternative, the Commission should modify its rules to (1) define "rural telephone company" to expand the number of LECs eligible for preference to include all LECs that have annual revenues of less than \$125,000 million or that serve no more than 100,000 access lines. It should also (1) clarify that rural telephone companies affiliated with each other are eligible for preferences; (2) provide for installment payments for rural telephone companies; (3) revise its rules on bidding credits for rural telephone companies to eliminate penalties which nullify the effect of the preference; (4) define a "small business" to reflect the characteristics of the particular service; and (5) formulate rules that encourage the

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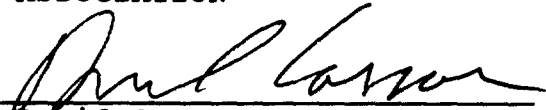
<sup>5</sup> Subsection 309(j)(3)(B) of the Communications Act.

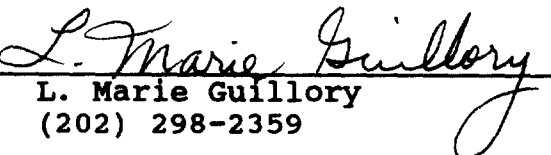
<sup>6</sup> Subsection 309(j)(3)(A) of the Communications Act.

formation of consortia and other alliances of rural telephone companies without penalizing companies for allying themselves with each other.

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July 11, 1994

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